



## Peru

### Country Reports on Human Rights Practices - [2004](#)

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Peru is a multiparty republic. In 2001, Alejandro Toledo of the Peru Posible party won the presidency in elections that were widely regarded to be free and fair. Although the judiciary was widely perceived to be corrupt and inefficient, it is independent.

The Peruvian National Police (PNP) and the military shared responsibility for internal security and were under effective civilian control. There were several instances of serious human rights abuses committed by members of the security forces.

The country had a market-oriented economy and a population of approximately 27.5 million. Banking, retail services, agriculture, mining, manufacturing, and fishing were key economic sectors. The estimated real gross domestic product growth was 4.5 percent. The poverty rate was 54 percent, and 24 percent of the population lived under conditions of extreme poverty. Unemployment and underemployment totaled 56 percent, and the Government lacked revenues for social investment. Wages and benefits rose faster than inflation in Lima.

The Government generally respected the human rights of its citizens; however, there were serious problems in a number of areas. Police on occasion tortured, beat, and otherwise abused detainees. Prison security forces abused inmates, and abuse of military recruits continued. Impunity remained a problem, and security forces sometimes harassed victims or other witnesses to keep them from filing charges. Overall prison conditions remained poor and were extremely harsh in maximum-security facilities. Pretrial detention continued to be prolonged, and trials frequently were subject to inordinate delays. Local authorities and other pressure groups, including coca growers, sought to influence the media through harassment and threats of legal action; however, the media were active and generally independent. Violence and discrimination against women continued. Violence against children and discrimination against persons with disabilities, indigenous people, and minorities remained problems. Trafficking in persons was a problem, which the Government took steps to address. Labor leaders asserted that some labor laws unduly restricted collective bargaining rights. Child labor remained a serious problem in the informal sector.

The terrorist organization Shining Path (Sendero Luminoso) was responsible for killings and other abuses.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings by the Government or its agents. There were no reports of unlawful or unwarranted killings by police. Two military recruits died under possibly suspicious circumstances during the year, compared with four such cases in 2003. Unlike in the previous year, there were no reports of death from torture.

Police killed two protesters during the October 19 takeover of a hydroelectric dam in Puno by coca growers (cocaleros). Reportedly, the two cocaleros, Mauro Pepe Surco Palomino and Florencio Quispe Coaquira, were killed when they tried to seize weapons from police officers in charge of clearing the dam. Two police officers were also wounded in the clash.

On October 7, the Sixth Court of Chincha sentenced four agents of the National Penitentiary System to 5 years in prison for the 2001 killing of inmate Esteban Minan Castro.

During the year, authorities opened a criminal case against four police officers accused of the 2003 torture and killing of Edgar Lopez Sancarranco. The case remained in the instruction phase (the first part of a criminal case) at year's end.

At year's end, the Cuzco Prosecutor was investigating as a homicide the 2003 death in custody of Julio Alcazar Dolmos.

There were no further developments in the 2003 cases of Leonel Sanchez Rivero, killed by police gunshot in July, and Freddy Campos Avendano, who died from a gunshot at his military barracks in September.

In August, a court found three members of the security forces guilty of the 2002 killing of Jose Reina Rincon. They were awaiting sentencing at year's end.

At year's end, there were no new developments and none was expected in the 2002 case of the death of a protester in San Clemente.

At year's end, the Provincial Prosecutor of Canta was investigating police involved in the 2002 death of Gerardo Adrianzen Otarola on charges of abuse of authority and torture.

At year's end, there were no new developments and none was expected in the trials of the police officers charged with manslaughter in the 2002 deaths of Edgar Pinto Quintanilla, Fernando Talavera Soto, and William Santos Tuesta.

On June 23, Peter Vasquez Chavez, a 23-year-old military recruit at the Cangari-Huanta Military Base in Ayacucho, was found dead. The military alleged that Vasquez Chavez died as a result of an attack by Sendero Luminoso. According to local residents, there was no such attack that day. The Public Ministry autopsy found that Vasquez Chavez died from a knife injury. A second autopsy by the army concluded that bullets killed Vasquez Chavez but did not mention a Sendero Luminoso attack. The case remained under investigation at year's end.

On October 3, Army corporal Edgar Ledesma Lopez was found dead in the military barracks of Puqio in Ayacucho. Military sources alleged that Ledesma hanged himself by his bootlaces, but area residents questioned this version of events. A police investigation was pending at year's end.

At year's end, there were no new developments in the 2003 case of the killing of Edy Quilca Cruz and the injuring of 30 other persons by soldiers that fired on a group of protesting students.

Lima's Northern Cone Prosecutor was investigating the 2003 beating and death of Army recruit, Corporal Magno Ariza Paitan, at year's end.

The investigations into the 2003 deaths of recruit Henry Dante Martinez Ayala and Corporal Jhon Lenon Olortegui Perea remained ongoing at year's end.

Prosecutors appealed a 2003 acquittal in the 2000 murder case of Air Force recruit Jose Luis Poma Payano, and the Fifth Penal Court of Lima ordered a retrial of the case. There were no further developments by year's end.

The Government continued to arrest members of La Colina death squad. Since 2001, authorities have arrested 13 members of the group. All former La Colina group members in custody were awaiting trial at year's end.

The case involving charges of extrajudicial killing in the 1997 rescue of 74 hostages at the Japanese ambassador's residence continued to progress through the judicial system. In 2002, the Supreme Court decided that the military court system had jurisdiction in the case of the commandos who carried out the attack. The Court also ruled that four others--former Intelligence Service Director Vladimiro Montesinos, former Armed Services Chief General Nicolas Hermoza, Colonel Roberto Huaman, and Colonel Jesus Zamudio--were subject to civilian criminal court jurisdiction in this case. In May, the Supreme Court of Military Justice officially closed the case against the commandos, concluding that the commandos had acted properly in the operation and that the MRTA terrorists killed had died in combat. At year's end, Montesinos (who has been convicted on other criminal charges), Hermoza, Huaman, and Zamudio were in custody, and the courts had completed the instruction phase of the case.

At year's end, a private group was conducting forensic research on the remains of the victims of the 1986 massacre of inmates at El Fronton jail. In November, the Prosecutor's Office filed charges against 11 marines allegedly responsible for carrying out the massacre, and the case was pending in the courts at year's end. Some human rights groups complained that the accusations in this case should have been directed at higher authorities, including then President Alan Garcia and his Minister of the Interior, so as to determine who ordered the killings.

In December 2002, the Truth and Reconciliation Commission (TRC) issued its first official report of a 1980 massacre where soldiers allegedly tortured and killed eight peasants in Chuschi, near Ayacucho. In April 2003, a criminal judge in Cangallo opened a trial against two army officers and five police officers for this crime. The Ministry of Defense also opened a trial in military court against the same officers. Whether military or civilian courts had jurisdiction in the case remained unresolved at year's end.

The terrorist group Sendero Luminoso continued to kill civilians as well as military and police officials. There were 120 terrorist incidents from January to December, the vast majority of which occurred in Junin, Huanuco, and Ayacucho, rural areas that historically suffered from Sendero Luminoso's violence. On June 4, Sendero terrorists killed two policemen and one navy non-commissioned officer in Aguaytia, Ucayali.

On February 14, a reporter was killed, allegedly at the orders of a local mayor in Yungay (see Section 2.a.). In April, protesters lynched the mayor of Ilave, whom they accused of corruption (see Section 2.b.).

b. Disappearance

There were no reports of politically motivated disappearances.

In April 2003, PNP Commander Juan Carlos Mejia Leon and PNP officers Antonio Lopez Trujillo, Atanulfo Zamora Garcia, and Victor Eduardo Marquino Alvarado were charged with the kidnapping of a student who disappeared after being detained by the PNP in 1990 as a suspected terrorist. During the year, four members of the security forces were charged with the 1990 kidnapping and disappearance of Ernesto Rafael Castillo Paez. They were awaiting trial at year's end.

The trial of 11 policemen for the 2003 disappearance of Andy Williams Garces was ongoing at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit such practices; however, there were reports of torture of detainees and the excessive use of force against protesters. Abuse of military recruits remained a problem. The authorities who allegedly committed abuses were seldom held responsible.

Torture often occurred immediately following arrest, when families were prohibited from visiting suspects being held incommunicado and when attorneys had only limited access (see Section 1.d.).

In some cases, police and security forces threatened or harassed victims, their relatives, and witnesses in an attempt to keep them from filing charges of human rights violations. According to Amnesty International (AI) and the Human Rights Commission (COMISEDH), some victims were reluctant to pursue judicial proceedings against their abusers, fearing that the abusers would be released without being charged. COMISEDH reported 22 cases of aggravated torture by security forces, compared with 10 in 2003.

On January 22, John Robert Osorio Morales went to the police station in Montserrate with a friend to try to resolve a dispute between them. At the station, police officers allegedly detained and beat Osorio, handcuffing him to a pole for more than an hour. COMISEDH filed charges of torture against the police officers involved, and the case was under preliminary investigation at year's end.

On August 28, police in Lima detained two brothers, Pablo Fabio and Miguel Sanchez Conde, who were suspected of planning to rob a local restaurant. After their detention, police beat the two suspects, abuse that was confirmed by a medical exam. The police involved in the case were under judicial investigation for torture at year's end.

On September 13, the Prosecutor lodged charges of torture against the prison guards in the 2003 beating case of inmate Wilder Escobedo Contreras. The case was in the judicial instruction phase at year's end.

During the year, there were the following developments in cases from 2003 of alleged abuse: John Paolo Alvino Ricalde and his family withdrew their complaint of his beating by police, COMISEDH alleged that the family did so out of fear of police retribution. A prosecutor dismissed the charges against prison guards for lack of evidence in the alleged abuse of inmate Richard Coronado Calderon. A prosecutor charged Piura police officers with the torture of six members of community self-defense groups in 2003; at year's end, the case was in the instruction phase, and the six community self defense members also were accused of abuses and remained in detention at year's end.

In September 2003, in Challapalca Prison in Tacna, several guards allegedly took a prisoner from his cell and beat and tortured him for 2 days. He was held in the prison's hospital clinic for 8 days before being returned to his cell. The case remained under investigation at year's end.

The 2003 case of the alleged torture by prison guards of Miguel Angel Vela del Aguila remained under judicial investigation at year's end.

The 2002 case of alleged torture by police officers of Renzo Vega Hidalgo was in the instruction phase in the Second Court of Lima at year's end.

The police involved in the 2002 beating of Jair Martin Rodriguez and his brother were accused of torture, and the case was awaiting issuance of formal charges by the prosecutor at year's end.

The trial of six prison guards in the 2002 beating of inmate Alfonso Valle Oquendo was ongoing at year's end.

Nongovernmental organizations (NGOs) and the Human Rights Ombudsman continued to receive complaints that military officers beat or otherwise abused some lower-ranking soldiers. There were two reported incidents in which military recruits died under suspicious circumstances (see Section 1.a.).

Soldier Freddy Cardenas Maucaylle dropped charges against a superior officer for an alleged 2002 beating in Andahuaylas. There were reports that Maucaylle was paid to drop the case.

The criminal court trial of the three military officers who allegedly drugged and sexually assaulted a soldier in the barracks in Ayacucho in 2002 was ongoing at year's end. The officers were charged with torture and obstruction of justice.

In March, a court issued a 4-year suspended sentence to Raul Ochoa Ravello for aggravated torture in the 2002 assault of a soldier and ordered payment of approximately \$1,200 (4,152 soles) in damages to the victim. Ochoa appealed the decision to the Supreme Court, where it remained at year's end.

Citizens at times took the law into their own hands, meting out severe physical punishment to persons suspected of committing offenses such as robbery, burglary, rape, and child molestation. According to police statistics, during the year, there were almost 2,000 such incidents, resulting in 19 deaths. The majority occurred in the countryside, although Lima registered an increase (to 695) of cases where mobs seized and punished suspected thieves. Local experts explained that lack of police presence and lack of faith in the justice system had led to outbreaks of violence against suspected criminals. Persons seized were beaten, tied to lampposts, and sometimes sprayed with gasoline and set afire.

Prison conditions varied greatly. For prisoners without funds, conditions were poor to extremely harsh in all facilities. Prisoners with funds had access to a range of amenities. For example, they could dine in restaurants within the prisons or could even receive meals sent to them from the outside. Overcrowding, lack of sanitation, and poor nutrition and health care were serious problems. Inadequate training of security forces and lack of control within the prison system also were serious problems. Inmates in all prisons had only intermittent access to running water; bathing facilities were inadequate; kitchen facilities remained generally unhygienic; and prisoners slept in hallways and common areas due to lack of cell space. Illegal drugs were abundant in many prisons, and tuberculosis and HIV/AIDS were reportedly at near-epidemic levels. For regular inmates, prison authorities budgeted only approximately \$0.70 (2.4 soles) per prisoner per day for food. At Lima's San Juan de Lurigancho men's prison, the country's largest, more than 7,000 prisoners lived in a facility built to accommodate 1,500.

The International Committee of the Red Cross (ICRC) reported a shortage of trained medical personnel, unreliable and insufficient legal representation for prisoners, an insufficient number of social workers and psychologists, and a general lack of organization in prison administration.

Conditions were particularly harsh in maximum-security facilities located at high altitudes. Human rights monitors, including AI, asserted that the Challapalca Prison in Tarata, Tacna, seriously violated international norms and standards, particularly as a result of its isolation and 14,000-foot altitude. According to the Ombudsman's Office, the Government has progressively closed the Challapalca Prison, and, at year's end, it held only 4 inmates, compared with 200 inmates in 2000.

Although there were no reports of security forces killing inmates, prison guards and fellow inmates reportedly routinely victimized and abused prisoners. Corruption was a serious problem among poorly paid prison guards, some of whom reportedly engaged in sexual abuse, blackmail, extortion, narcotics trafficking, and the acceptance of bribes in exchange for favors.

Detainees were held temporarily in pretrial detention centers located at police stations, judiciary buildings, and, in large cities, at the Public Ministry. Detainees are to spend a maximum of 24 hours in these areas after which time they are to be released or formally charged. Persons detained for espionage, drug trafficking, and terrorism may be held for a longer period, up to 15 days. During their time in detention, detainees are to have access to food, water, fresh air, and communications with family and counsel. The Public Ministry oversees the detention centers, whose conditions are also monitored by the Ombudsman's Office.

In practice, the above norms often were not fully realized. Persons detained in remote areas were sometimes held for longer periods due to difficulties in getting access to counsel and formulating charges. Some remote, rural police stations also lacked basic facilities. In general, oversight of pretrial detention centers was more effective in the cities than in rural areas.

Male and female prisoners were held separately. In high security prisons, female inmates were allowed to see their children once a week. For regular prisoners, conjugal visits were permitted for men and women. In women's prisons, children 5 years of age and younger lived with their jailed mothers. There were also separate juvenile facilities, in which conditions were not as harsh as those in adult prisons. Pretrial detainees were held together with convicted prisoners in most cases.

The Government permitted prison visits by independent human rights observers, including the ICRC. The ICRC made 125 unannounced visits to inmates in 59 different prisons, detention centers, and juvenile detention facilities during the year.

#### d. Arbitrary Arrest or Detention

The Constitution, Criminal Code, and anti-terrorist statutes prohibit arbitrary arrest and detention, although the Organic Law of

the PNP permits police to detain a person for any investigative purpose. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. Only judges may authorize detentions, including in corruption cases. Authorities are required to arraign arrested persons within 24 hours. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the police within 24 hours; in remote areas, this must be accomplished as soon as practicable.

The PNP, with a force of 92,000, was responsible for all areas of law enforcement in the country. It functioned under the authority of the Minister of the Interior, a cabinet-level position. The PNP's personnel structure follows that of the military, with an officer corps and enlisted personnel. The organizational structure is a mixture of directorates that specialize in specific areas (such as kidnapping, counter-narcotics, and terrorism) and local police units. Each department, province, city, and town has a PNP presence.

The PNP was considered undermanned, had problems with professionalism, and was often ineffective against common criminal activity, and unable at times to meet its mandated responsibilities, such as witness protection. Corruption and impunity were problems.

The Interior Ministry and the PNP attempted to address these weaknesses. In August 2003, the PNP formed the Green Squad, a special unit to fight street crime in response to citizen complaints when local police proved ineffective. The Green Squad was particularly effective in raiding clandestine brothels that were often engaged in trafficking in persons as well as other crimes (see Section 5, Trafficking).

The PNP also worked with a local human rights NGO, the Peruvian Institute for Education in Human Rights and Peace, which trained 531 officers in human rights in 5 regions of the country.

The law requires police to report to the Public Ministry within 24 hours whenever a suspect is arrested while committing a criminal act. The Public Ministry, in turn, must issue a report assessing the legality of the police actions.

The law allows the authorities to detain suspects in investigations for corruption for up to 15 days without arraignment and permits authorities to prohibit such suspects from traveling abroad. Police may detain terrorist suspects for a maximum of 15 days and hold them incommunicado for the first 10 days.

The law provides the right to prompt judicial determination. On average, 20 hours elapse between the time that a person is detained and the person's appearance before a judge. Judges then have 2 hours to decide whether to release or continue to detain the suspect.

There was a functioning bail system; however, economic limitations prevented many defendants from posting the required payments.

Criminal detainees are allowed prompt access to a lawyer and to family members.

In August, the Justice Ministry launched a program, Free Legal Assistance, to establish offices across the country where indigent persons could access attorneys' advice at no cost. The first two of nine such offices were opened in San Juan de Miraflores and Los Olivos, with a public defender lawyer and a mediator available for consultations. Along with the legal defense offices, the Ministry set up a toll-free legal defense hotline, which started operation in October.

Lengthy detention before trial and sentencing was a problem. According to a study prepared by the Technical Secretary of the Special Commission for Integral Reform of the Justice System (CERIAJUS), of 29,581 person held in prison, only 30.8 percent actually had been sentenced, while 69.2 percent were cases still being tried. If prisoners are held more than 18 months (or 36 months in more complex cases) without being sentenced, they are released.

During the year, judges in charge of processing criminal cases implemented standards promulgated in 2003 by the Executive Council of the Judiciary to streamline case handling procedures and accelerate trial processing. As part of the reform process, the Superior Court of Lima completed an inventory of cases in its 14 districts and 6 criminal courts with pretrial detainees, which identified various bottlenecks in the processing of pending cases. For example, it took almost 2 years on average for a case to move from initiation to sentencing. The longest delay came in the period of preparation for oral hearings, which often lasted 3 months. The Superior Court of Lima used the results of the case inventory to design a plan to reduce delays in the processing of oral cases and began to implement a backlog reduction program.

In July, a new Criminal Procedures Code was approved, which will take effect gradually, entering into full application in February 2006. The Code establishes an accusatory system for criminal cases that divides the processing of such cases into three phases: The preparatory investigation, the hearings phase, and sentencing. Under the new system, judges, prosecutors, and police will assume added duties, which will require extensive training.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The three-tier court structure consists of lower and superior courts, and a Supreme Court of 30 judges. A Constitutional Tribunal of seven members operates independently of the Judicial Branch. The independent National Judicial Council (CNM) appointed, disciplined, and evaluated all judges and prosecutors who have served in their position for 7 years or more. Failure to be certified by the CNM disqualified a judge or prosecutor from working in that capacity again. Several of the more than 100 judicial officials failing to gain certification filed complaints with the Inter-American Commission on Human Rights (IACHR) that this certification process was unfair. In September, the Ministry of Justice created a high-level commission to find a solution to the problem of judicial officials who were not qualified to be presented to the IACHR, and its work continued at year's end.

Judicial reform continued to be a priority of the Government, but implementation was irregular. CERIAJUS members include the President of the Supreme Court of Justice, the Attorney General, the president of the National Judicial Council, a representative of the Constitutional Tribunal, the president of the Judicial Academy, the Minister of Justice, the Ombudsman, two representatives of the Justice and Human Rights Commission of Congress, and five representatives of civil institutions participating in the National Accord.

In April, CERIAJUS presented its national plan to reform the justice system, and, by year's end, the Judicial Branch had set up two follow-up commissions to focus on two specific issues recommended by CERIAJUS: Legislation providing a career system for judges and prosecutors and a system to organize and publicize jurisprudence. On December 28, the commission charged with drafting legislation dealing with judges and prosecutors' careers presented its plan to the Plenary of the Supreme Court of Justice. The second commission recommended the inclusion in the judicial website of the rulings of the Supreme Court of Justice. As a result, 1,000 decisions were posted in the judiciary web site, and the judiciary continued scanning 9,000 more Supreme Court decisions for posting on its website.

In September, the Executive Branch created a Special Commission consisting of six jurists to oversee the implementation of the national plan for justice sector reform.

Since its reestablishment in 2000, the CNM has carried out eight selection processes for judges and prosecutors, including the naming of four justices to the Supreme Court. Reform efforts reduced the percentages of provisional justices and prosecutors from 84 percent of judges and 73 percent of prosecutors in 2001 to 27 percent and 35 percent, respectively.

The justice system is based on the Napoleonic Code. In civilian courts, criminal cases moved through three distinct phases. First, a prosecutor investigated cases and submitted an opinion to a first instance judge, who determined whether there was sufficient evidence to open legal proceedings. If there was, the judge conducted an investigation and, in over 90 percent of cases, determined facts, guilt or innocence, and issued a sentence. In some cases, particularly those involving violence or public officials, the law requires that the first instance judge pass the results of the investigation to the superior court for a trial before a three-judge panel. Anyone convicted and sentenced by a first instance judge may appeal to the Superior Court and then to the Supreme Court. All defendants have the right to be present at their trial. Defendants also have the right to counsel, although the public defender system often failed to provide indigent defendants with qualified attorneys.

There was a presumption of innocence, defendants could call witnesses, and attorneys had unimpeded access to their clients.

Under the military justice system, judges in the lower courts had the power to sentence and were required to pass judgment within 10 days of a trial's opening. Defendants could then appeal their convictions to the Superior Military Council, which had 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the Superior Military Council and Supreme Council levels, a significant number of judges were active-duty officers with little or no professional legal training.

On August 24, the Constitutional Tribunal ruled, in a case brought by the Ombudsman, that the military-political commands created to maintain order during states of national emergency were not constitutional. The Tribunal held that the commands would be only military commands and not structures that displaced those of legitimately constituted local authorities. The Constitutional Tribunal also ruled that cases involving human rights violations committed by military or police forces had to be judged in civilian courts as common crimes and could not be regarded as strictly military matters subject to military justice.

On December 2, the Inter-American Court of Human Rights ruled that the 2001 civilian court trial conviction of U.S. citizen Lori Berenson on charges of collaboration with the Tupac Amaru Revolutionary Movement (MRTA) terrorist group was fair.

Before the Inter-American Court of Human Rights could rule in the cases of Maria Teresa de la Cruz and Wilson Garcia Asto, the Government, through the Anti-Terrorist Court, initiated a study of both cases that led to their release in August.

During the year, in accordance with the decisions of both the Inter-American Court of Human Rights and the Constitutional Tribunal, the Special Terrorism Court continued to re-try defendants previously convicted by military tribunals. The Terrorism Court handed down 250 sentences. Another 307 cases remained to be decided. The Terrorism Court convicted 65 percent of those accused. It absolved 600 persons as a result of sentences completed, time off granted for cooperation, and lack of substance to the charges against them. At year's end, there were 1,400 people in prison sentenced for having committed acts of terrorism. The trial of Sendero Luminoso leader Abimael Guzman in civilian court was ongoing at year's end.

As a follow-up to the recommendations put forward by the Truth and Reconciliation Commission (TRC), the NGO Institute for Legal Defense (IDL), in cooperation with the Special Terrorism Court, completed a study in September of the official list of those wanted for terrorism and found that there remained a backlog of 51,684 summons or orders for capture against 12,582 suspects allegedly involved in terrorism.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were reports that the authorities did not always obtain warrants before entering private dwellings.

There were reports that some young men from poor, rural areas, who were unaware that military service was no longer mandatory, were taken into military service when they went to register. Also, in some rural areas, families reported to human rights NGOs that their sons were taken into the military before they turned 18, which the military explained by saying that young men who were eager to join their ranks sometimes lied about their age.

There were no reports of forced conscription by the MRTA terrorist organization, most of whose surviving members were in prison. A second terrorist organization, Sendero Luminoso, continued to coerce indigenous persons to join its ranks (see Section 5).

Cases claiming monetary compensation, as recommended by the IACHR, for women sterilized under a Fujimori-era program, remained under consideration at year's end.

Section 2 Respect for Civil Liberties, including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom; however, there were multiple reports of press harassment by provincial authorities or from private groups or organizations such as protesting coca growers (cocaleros). Harassment took the form of attacks on journalists, illegal arrests, or threats of judicial action. Two reporters, Alberto Rivera and Antonio de la Torre, were killed; local officials were suspects in both slayings.

The press represented a wide spectrum of opinion, including those in favor of and in opposition to the Government. In the greater Lima area, there were 25 daily newspapers, 7 television stations, 65 radio stations, and 2 news channels on 2 commercial cable systems. There were numerous provincial newspapers, television, and radio stations. All were privately owned except for one government-owned daily newspaper, one government-owned television network, and one government-owned radio station.

On July 15, the Government approved a new Radio and Television Law, which went into effect in November. Although the law was aimed at more impartial media regulation, critics said that it gave excessive regulatory power to the Transportation and Communications Ministry and that it did not address adequately the problem of payoffs to journalists and media moguls, the problems that motivated the law in the first place. Regulations for the law were not published by year's end.

Journalists and media outlets reportedly were intimidated during the year. According to the National Journalists Association, 2 reporters were killed and 121 cases of harassment were reported (mainly in the provinces), which was approximately 3 times the number of harassment incidents reported in 2003. The Press and Society Institute issued 72 alerts on these cases. The majority of these incidents took the form of verbal or physical violence, threats, judicial pressure, restrictions on freedom of information, and charges of slander from local politicians, civilians, police, military officials, or unknown persons. They reflected the general lack of effective state presence in many parts of the countryside.

On February 26, Huanuco regional president Luzmila Templo, filed suit against the managing editor of the country's most important daily, El Comercio, for reporting on Templo's links with cocalero leaders.

In March, the Specialized Anti-Corruption Criminal Provincial Prosecutor accused opposition daily La Razon of attacks against public peace and calm, conspiracy, and assaults on the constitutional order for its February 4 front-page article on an alleged audiotape of a 2000 meeting between President Toledo and Valdimiro Montesinos. Members of the Government cited this incident to support their allegations that Montesinos continued to influence some elements of the media. Montesinos had been photographed on February 3 making notes at his trial that suggested the theme of the audiotape that became the subject of La Razon's story the following day. President Toledo stated that La Razon's report was false. Eight of the newspaper's journalists resigned in protest of Montesinos' alleged continuing influence over La Razon. An investigation by the Attorney General's office was pending at year's end.

On April 20, Rocio Vasquez, a Chimbote reporter, claimed that she had received a death threat for denouncing a fishing industry

magnate, who denied the charges. Later, Vazquez resigned from her job at the Chimbote daily Ultimas Noticias, stating that the paper had blocked her investigations regarding the same individual.

On May 6, Alejandro Miro Quesada Garland, publisher of El Comercio; his son, Alejandro Miro Quesada Cisneros, the managing editor; Fernando Ampuero, the director of El Comercio's investigative unit; and Miguel Ramirez, a member of the investigative unit, denounced a \$100 million (346 million soles) lawsuit filed against them by alleged narcotics trafficker Fernando Zevallos.

On February 14, David Moises Julca, the fiance of local mayor Amaro Leon's daughter, killed Antonio de la Torre, a reporter with Yungay's Orbita radio station who had been investigating local political corruption. Leon was accused of paying Moises Julca to kill de la Torre and, on March 18, was arrested in connection with the killing. At year's end, police had not yet located Julca.

On March 23, a group of unknown persons entered the studio of the Lider radio station and stole the station's broadcasting equipment. The station had accused Ilo mayor Jorge Mendoza of corruption, nepotism, and destruction of the environment. Mendoza sued the station for slander. As a result of the theft, Lider was off the air for 1 week.

On March 25, the brothers Mendel and Samuel Winter, two former minority shareholders of TV Channel 2, were sentenced to 5 years in prison for having accepted bribes from Vladimiro Montesinos. They were set free soon afterward because they had cooperated with prosecutors and had completed two-thirds of their sentence. On June 26, a court ordered Channel 2 to return \$3.74 million (12.94 million soles) that Vladimiro Montesinos had given to Samuel and Mendel Winter to increase the station's capital. Montesinos himself was convicted, fined, and sentenced to a 15-year prison term for various abuses of office (see Section 3).

On April 21, Alberto Rivera, the anchorman of Pucallpa's "Frecuencia Oriental" radio station, was killed by two unknown persons. An investigation continued at year's end.

On May 31, Huaraz reporters Edgar Palma and Javier Pomaillo publicly denounced alleged telephone death threats they had received from persons who said they belonged to the municipality of Huaraz and to the Ancash regional president's office. The two reporters had been investigating corruption complaints against officials working in both offices.

On June 28, Ayacucho reporter Jose Atauje received death threats from persons who said they belonged to the Central Regional Committee of Ayacucho, after the reporter had disseminated an interview with Shining Path leaders.

On May 20, customs officials prevented British reporter Sally Bowen from leaving the country because of an arrest order originating from the defamation suit filed by accused narcotrafficker Fernando Zevallos. Zevallos also filed a claim against the U.S. reporter Jane Holligan, seeking \$10 million (34.6 million soles). Holligan and Bowen had collaborated on a book, "The Imperfect Spy," in which they cited accusations of drug trafficking by Zevallos.

On January 30, a court declared reporter Juan de Mata Jara innocent of charges of terrorism that had been brought against him under the Fujimori regime, and he was released the next day.

In January, Congressman Jorge Mufarech sued Pedro Salinas, a daily Correo columnist, for \$1 million (3.46 million soles) for defamation, for articles Salinas had published in 2002 and 2003. Salinas claimed this action sought to silence his criticism of Mufarech and the Government.

There were no government restrictions on the Internet.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the authorities generally respected these rights in practice.

The law does not require a permit for a public demonstration; however, organizers must inform the Ministry of Interior's political authority (prefect) about the kind of demonstration and its location. Demonstrations could be prohibited for reasons of public safety or health. The police used tear gas and occasional force to disperse protesters in various demonstrations during the year.

Although most demonstrations were peaceful during the year, protests in some areas turned violent. In April, protesters lynched the mayor in Ilave, whom they accused of corruption. The deputy mayor and four other persons were arrested and charged with the killing. In October, police used force to clear a group of cocaleros from a hydroelectric dam in San Gaban in Puno Province. Two protesters were killed when they reportedly tried to seize PNP officers' weapons (see Section 1.a.). Two police officers were also wounded in the clash. In August, the Ombudsman's office issued a report that noted the prevalence of rural unrest (see Section 4).

On September 13, a crowd of 500 protesting students at the National Engineering University tossed rocks and sticks at police officers, briefly seized 3 officers, beat them, and took away their helmets and parts of their uniforms. Some students also tried to



crash a university truck into a police wagon. Police responded with tear gas and cleared many university buildings of demonstrators.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Catholic Church received preferential treatment from the Government. The Constitution establishes the separation of church and state but also acknowledges the Catholic Church's role as "an important element in the historical, cultural, and moral development of the nation." The Catholic Church and Catholic clergy received extra benefits from the Government in education, taxation of personal income and institutional property, and remuneration. By law, the military could hire only Catholic clergy as chaplains, and Catholicism is the only recognized religion of military personnel.

All faiths were free to establish places of worship, train clergy, and proselytize. Religious denominations or churches were not required to register with the Government or apply for a license. Missionaries could enter the country and proselytize.

In 2003, the Ministry of Justice established an Office of Ecclesiastical Affairs to be a link between the Ministry and the religious hierarchies of all faiths. Churches were asked to register voluntarily with the Ministry to receive tax benefits and exemption from import duties on religious materials.

The Ministry of Education required Catholic religion courses in all primary schools, public and private. Parents could request an exemption by writing to the school principal.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights of free movement; however, the authorities legally may restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Police could check travelers at control points throughout the country.

Sendero Luminoso occasionally interrupted the free movement of persons by setting up roadblocks in sections of the Upper Huallaga, Apurimac, and Ene River valleys.

The Constitution prohibits forced exile, and the Government did not use it.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law, naturalized citizens may lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest."

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared prosecution. The Government granted refugee status or asylum. The Government cooperated with the U.N. High Commissioner for Refugees in granting refugee status and recognized the Catholic Migration Commission (CMC) as the official provider of technical assistance to refugees. The CMC also advised citizens who feared persecution and sought asylum abroad. The Government provided protection to political refugees on a renewable, year-to-year basis.

At year's end, the CMC reported that 462 persons had requested asylum or refugee status since 2000, the majority of them originally from Colombia. The CMC had granted resident status to 116 of the 462 and rejected 12. At year's end, there were 902 refugees in the country.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of mandatory voting and universal suffrage (except for members of the armed forces and the police).

In 2000, President Valentin Paniagua took power and led a transition government after then President Alberto Fujimori resigned and was dismissed from office. In July 2001, President Alejandro Toledo assumed the presidency following a peaceful transfer of power through free and fair national elections held in April and June 2001. The two principal parties represented in the 120-member Congress were Peru Posible (37 seats) and APRA (28 seats).

Registration of a new political party requires the signature of 1 percent of the voters who participated in the past election. The presidential term is (5 years), and the Constitution prohibits the immediate reelection of a president. Groups that advocate the

violent overthrow of the Government are barred from participating in the political process.

Corruption was a major problem, which the Government took steps to address. On January 3, the Labor Minister resigned after the Comptroller General presented a report that supported allegations of nepotism and influence peddling against him. During the year, the Anti-Corruption Courts handed down 14 final decisions. Two sentences, one of 9 years and 8 months in prison and the other for 15 years in prison, were entered against former President Fujimori's advisor, Vladimiro Montesinos, for various abuses of office. The Anti-Corruption courts continued to work on 143 cases that involved 1,453 defendants, only 7 percent of whom have arrest warrants. Since the creation of these courts, the Government has recovered more than \$174 million (602 million soles) misappropriated during the Fujimori era. At year's end, an additional \$82 million (283.7 million soles) was in the process of being recovered. The Judicial Branch extended the powers of the Anti Corruption Courts to take on new corruption cases, not just from the Fujimori era.

Pursuant to the Transparency and Access to Public Information Law, most Ministries and central offices provided key information on their web pages, and, in some offices, information requests were expedited. However, implementation of the law was incomplete, particularly in rural areas. In addition, there was a widespread lack of awareness of the law, and relatively few citizens understood and exercised their right to information. The Ombudsman's office made efforts to promote citizen awareness of transparency rights and to encourage regional governments to adopt transparency practices. In July, the Ombudsman's office issued its annual report that ranked regional governments in terms of transparency, citizen access to information, clear financial accounting, and ability to work with different social actors.

Women and some minorities participated actively in government and politics. There were 22 women in the 120-member Congress and 3 female regional presidents. Almost 3 percent of the mayors and 25 percent of the city council officers elected at the local level were women. There were two women in the Cabinet, the Attorney General was a woman, and there was one woman on the Supreme Court. The Law on Political Parties mandates that at least 30 percent of the candidate lists for electoral offices at all levels be women.

Traditionally, an elite minority of persons of European descent held most leadership positions in government. President Toledo was the country's first elected president of mixed Caucasian and indigenous ancestry. It was rare for indigenous persons, who make up more than one-third of the population, to hold high public office. Congress had one self-declared indigenous member. Three congressmen represented the Afro-Peruvian minority, estimated to be 3 to 5 percent of the total population, but there were no Afro-Peruvian Ministers.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

According to COMISEDH, military commanders did not grant access to military facilities to human rights observers. To obtain information about activities in those areas, NGOs had to work through the Ombudsman's office.

The Government took some steps to implement recommendations in the August 2003 report of the Truth and Reconciliation Commission (TRC), which had stated that approximately 69,000 persons died during the armed conflict of 1980-2000. The TRC report concluded that the Sendero Luminoso terrorist group, motivated by a "genocidal ideology," carried out most of the political killings. During the year, the Government filed charges in 47 cases involving 150 persons whom the TRC identified as possible human rights violators, but most cases remained under prosecutorial investigation; only 16 persons have been formally charged. The Government also followed up on a TRC recommendation to create a multi-sectoral commission to oversee the implementation of proposals put forward by the TRC. In August, the Constitutional Tribunal ruled that military authorities could not assume political functions during states of emergency and that human rights crimes committed by the military must be tried in civilian and not military courts.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equal rights for all citizens and specifically prohibits discrimination based on ethnic origin, race, gender, language, opinion, or economic condition. However, discrimination against women, persons with disabilities, indigenous people, and racial and ethnic minorities persisted, although there was progress in a number of areas.

##### Women

Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls was a chronic problem. Abuses were aggravated by insensitivity on the part of law enforcement and judicial authorities toward female victims.

The law prohibits domestic violence, and penalties range from 1 month to 6 years in prison. The domestic violence law gives judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home; authorizes

the victim's relatives and unrelated persons living in the home to file complaints of domestic violence; and allows any health professional to certify injuries. The law requires police investigation of domestic violence to take place within 5 days and obliges authorities to extend protection to women and children who are victims of domestic violence.

During the first 5 months of the year, the Ministry of Women and Social Development (MIMDES) centers reported 13,191 cases of domestic violence. From 2002 until August, the centers assisted 78,163 victims (including men as well as women). The monthly average of reported abuse cases was approximately 2,500. Women constituted 88 percent of the victims.

The war against terror waged by the Government from 1980-2000 sharply increased the population in rural areas of war orphans and female rape victims, who often were stigmatized and marginalized in traditional regions such as Ayacucho.

The MIMDES and NGOs stated that many domestic abuse cases never were reported. NGO sources contended that the majority of reported cases did not result in formal charges due to fear of retaliation from the accused spouse or because of the cost involved in pursuing a complaint. In addition, legal and physical protection was limited by delays in legal processes, ambiguities in the law, and lack of alternative shelter and income for victims.

MIMDES ran the Women's Emergency Program, which focused on the legal, psychological, and medical problems facing women and children who were victims of domestic violence. At year's end, MIMDES operated 39 centers, which brought together representatives of various government institutions--police, prosecutors, counselors, and public welfare agents--charged with helping victims of domestic violence.

During the year, MIMDES continued a public education campaign to sensitize government employees and the citizenry to domestic violence. With NGO assistance, MIMDES trained police about gender issues, human rights, and domestic violence and instructed officers on processing domestic violence cases. MIMDES worked closely with the Women's Office of the Police Ombudsman. Nonetheless, the national Ombudsman's office continued to complain that officers reacted indifferently to charges of domestic violence, although the law requires all police stations to receive such complaints.

During the year, new laws increased the penalties for rape and for pimps and for clients of underage prostitutes. Rape is now punishable by a sentence of 4 to 8 years in prison. If the victim is between 14 and 18 years of age, or if the perpetrator uses a weapon or abuses his or her authority to commit the crime, punishments range from 8 to 15 years in prison. If the victim is less than 14 years of age, punishments range from 20 years to life in prison. The new laws also more closely define trafficking in persons, criminalize Internet child pornography and sexual tourism involving children, and provide punishments for those who derive financial benefit from these activities. Penalties for pimps and clients of underage prostitutes range from 4 to 8 years in prison.

There were no current official statistics available on rape. Women's organizations noted that alcohol abuse and traditional attitudes subordinating women, particularly in rural areas, aggravated the problem of rape and sexual abuse.

Prostitution is legal for women over 18 years of age if they were registered with municipal authorities and carried a sanitary certification.

Sexual harassment was a problem. A 2003 law defined sexual harassment as a labor rights violation subject to administrative punishment. Punishments differ depending on the professional situation where the violation took place, such as in education or the private sector, domestic service, the armed forces, and the police.

The Constitution provides for equality between men and women, and 95 amendments to the Employment Promotion Law--as well as other laws relative to marriage, divorce, and property rights--prohibit discrimination against women. Racial and sexual discrimination in employment advertisements or announcements of educational opportunities were prohibited; however, they continued to occur in practice. The law prohibits the arbitrary dismissal of pregnant women.

Traditional assumptions and misconceptions often impeded access by women to leadership roles in both the public and private sectors. Women primarily from the upper and upper-middle classes advanced in recent years into leadership roles in various companies and government agencies. Due to societal prejudice and discrimination, women historically suffered disproportionately from the country's pervasive poverty and unemployment.

Women's rights groups, such as Flora Tristan and Manuela Ramos, studied discrimination against women and suggested ways to address this problem, which often involved education and efforts to change traditional attitudes. During the year, Flora Tristan prepared a study, not yet published, on human trafficking in eight of the country's urban areas.

#### Children

The Government was committed to children's rights and welfare.

The Government provided free, compulsory education through secondary school. Education was generally available throughout the country, but there was a shortage of qualified teachers, primarily in jungle regions. Fees for uniforms and books often were prohibitive for poor families. Largely because of widespread poverty, approximately one-third of all school-age children and

adolescents worked during daytime hours rather than attended school. Children living in poverty averaged only 7.8 years of education, compared with 9.4 years for children living above the poverty line. Approximately 6 percent of children age 6 to 12 and 17 percent of adolescents age 12 to 17 either never attended school or abandoned their education. School nonattendance was highest in rural and jungle areas: In Lima, more than 90 percent of children were enrolled in primary school and more than 80 percent in secondary school, but, in some remote areas of the country, fewer than 60 percent of children attended school. Approximately 50 percent of the students who went to primary school completed high school.

Boys and girls had equal access to education. Pregnant school-age girls had the right to begin or continue attending school.

Working adolescents, particularly those who worked as childcare providers and female domestics, could attend classes at night schools operated by the Ministry of Education; however, attendance often obliged young people to go out at night in areas of Lima and other major cities that could be unsafe. During the year, the Ministry of Education initiated a tutorial program in the daytime schools, whereby teachers made themselves available to give extra help to working students and keep those students in regular school programs.

A 2003 National Statistical Institute survey estimated that nearly 60 percent of the country's 10 million children less than 18 years of age lived in poverty, approximately 20 percent of them in extreme poverty. Approximately 25 percent of children under age 5 were malnourished. The infant mortality rate was 33 per 1,000 in the year 2000 and 34 for 2002. The Government's Integral Health Security program offered poor mothers and infants as well as school-age children access to health care. The program includes children not attending school. Boys and girls had equal access to health services under this system.

Violence against children and the sexual abuse of children were serious problems. Based on information from its women's emergency centers, MIMDES reported that, during the year, there were 769 cases of violence or sexual abuse of children 5 years of age and under; 1,879 cases for children ages 6 to 11; and 2,721 cases for children ages 12-17.

According to NGOs, many abuse cases never were reported to the authorities, since many persons believed that such problems belonged within the family and should be resolved privately. The Women's Emergency Program worked to address the problems facing children who were victims of violence.

The Children's Bureau of MIMDES coordinated child- and adolescent-related government policies and programs. At the grassroots level, 1,312 Children's Rights and Welfare Protection Offices received and resolved complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operated approximately 46 percent of these offices, while schools, churches, and NGOs ran the remaining 54 percent. Law students staffed most of the units; only the offices in the wealthiest districts of the country had professionally trained lawyers, psychologists, and social workers. When these offices could not resolve cases, officials typically referred them to the local prosecutors' offices of the Public Ministry. Settlements adjudicated by these offices were binding legally and had the same force as judgments entered by a court of law.

Trafficking of children was a problem (see Section 5, Trafficking).

Child labor was a serious problem (see Section 6.d.).

#### Trafficking in Persons

Trafficking statutes, which were updated during the year, prohibit trafficking in persons and provide punishments for those who move a person, either within the country or to an area outside the country, for the purposes of sexual exploitation (including prostitution, sexual slavery, or pornography) from 5 to 10 years' imprisonment. If the trafficking victim is under 18 years of age, the punishment is 10 to 15 years' imprisonment. Laws prohibiting kidnapping, sexual abuse of minors, and illegal employment were enforced and also could be used to punish traffickers in persons.

In May, Congress enacted legislation that significantly increased penalties for the sexual abuse of minors. In particular, the new statute levied punishments (4 to 8 years' imprisonment) against those who were pimps or clients for prostitutes under the age of 18. The law also punishes those who would profit from such activities and made Internet child pornography illegal. The effect of the new laws was felt almost immediately, as the Minister of Agriculture was forced to resign for having been partial owner of a hotel allegedly used by underage prostitutes.

The Ministry of the Interior and the PNP have taken the lead on attacking domestic trafficking. The Foreign Ministry and Immigration authorities are responsible for cases of international trafficking.

Although there were no authoritative estimates of its extent, there were isolated reports that persons were trafficked from the country, and trafficking within the country occurred. In March, the Government formed a permanent, ministerial-level Multi-Sectoral Committee (MSC) to work on the issue of trafficking in persons. The Committee is chaired by the Ministry of the Interior and includes representatives from 10 government ministries and agencies, 3 international organizations, and 5 national NGOs.

Under the MSC's leadership, the Government took a number of actions against traffickers. PNP officers repeatedly raided

clandestine brothels, including in La Rinconada, a distant mining town in the Andes that is a notorious center of underage prostitution. The raids rescued a number of young women who were returned to their families. At year's end, one international trafficker had been arrested and awaited trial. Other domestic traffickers had been detained in raids and then released pending investigation. The Government had yet to develop a statistical system for following trafficking prosecutions nationwide.

In April, the media reported the case of Irene Oblitas Arone, who was trafficked in 1988 to Japan where members of the Japanese Mafia "purchased" her and forced her into prostitution. Oblitas subsequently returned to the country. NGO representatives complained that the Government did not provide adequate protection for persons like Oblitas, who continued to fear retaliation from traffickers after her identity became known. PNP officers detained Maria Yataco, a citizen of Japanese ancestry who had been Oblitas' first contact with the network that trafficked her to Japan. At year's end, investigations of Yataco and other traffickers associated with her were ongoing.

In August, the Foreign Ministry appropriated money for the repatriation of a second trafficking victim and her son, who were in Japan. At year's end, the victim remained in Japan completing arrangements for her return to the country, and the case against her traffickers remained under investigation by a Lima penal court.

Prosecution also continued at year's end in the case of Liliana Mendoza, a trafficking victim rescued from a brothel in Trujillo by PNP and NGO representatives in 2003.

Trafficking to Spain and, particularly, to Japan operated through organized criminal networks.

Internal trafficking was a far greater problem. NGOs and international organizations maintained that significant domestic trafficking occurred, particularly to bring underage women from the Amazon district or the Sierras into the cities or into mining areas to work as prostitutes or to work in homes as domestics. This trafficking took place through informal networks that could involve boyfriends and even the families of the young women victims.

The Government coordinated its anti-trafficking activities with NGOs. A Catholic order of nuns, the Adoring Sisters, operated 3 programs for underage female prostitutes, 1 a live-in center for approximately 75 girls (and 20 children of the victims) in Callao and 2 other walk-in centers in Lima. All facilities offered medical attention, job training, and self-esteem workshops in an attempt to remove underage girls from the streets. The Government's Institute for Adolescents and Children provided the Adoring Sisters with the live-in facility and paid for utilities and food.

During the year, the International Organization for Migration worked with Movimiento El Pozo, an NGO dedicated to helping prostitutes, to set up a hotline to warn and assist victims of international trafficking. The hotline was instrumental in bringing a victim's case to the attention of the Government. Hotline staff worked closely with the PNP to verify information they received from callers about suspicious job offers.

During the year, the Ministry of Foreign Affairs began an aggressive advertising campaign warning travelers about the dangers of trafficking. The Ministry of Commerce and Tourism also initiated an anti-trafficking campaign, warning hoteliers and others about the dangers of trafficking. In August and October, both ministries hosted major public conferences with various NGOs on trafficking in persons.

#### Persons with Disabilities

The Constitution provides that persons with disabilities have "the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security." Legislation that established the National Council for the Integration of People with Disabilities specifies rights, allowances, programs, and services. The law prohibits discrimination, mandates that public spaces be barrier-free and buildings be architecturally accessible, and provides for the appointment of a disability rights specialist in the Human Rights Ombudsman's office.

Despite an increased focus on persons with disabilities, the Government devoted few resources to efforts in this area. Many persons with disabilities remained economically and socially marginalized.

Although the law prohibits discrimination in the workplace, it does not specify sources of funding for programs to enable workers with disabilities to be productive. As a result, persons with disabilities and the private agencies serving them generally relied on public charity and on funding from international organizations.

Although construction regulations mandate barrier-free access for persons with disabilities to public service buildings, little effort was made to implement this provision. There were no accommodations, such as interpreters for the deaf in government service offices and Braille or recordings for the blind.

According to officials of the Institute for Social Security, less than 1 percent of persons with severe disabilities actually worked. Some private companies initiated programs to hire and train persons with disabilities, and a private foundation provided small loans to persons with disabilities to start businesses. Nevertheless, such persons faced discrimination by potential employers.

### National/Racial/Ethnic Minorities

The Constitution provides all citizens equality before the law and forbids discrimination, including by reason of race, origin, and language. The law criminalizes racial discrimination. The country's population included several racial minorities, the largest of which were persons of Asian and African descent. Afro-Peruvians, who tended to be concentrated along the coast, often faced discrimination and social prejudice and were among the poorest groups in the country. Afro-Peruvian civil rights groups contended that official surveys and censuses did not accurately reflect their numbers.

Afro-Peruvians generally did not hold leadership positions in government, business, or the military. Both the navy and the air force were believed widely to follow unstated policies that minimized the number of blacks in the officer corps. The law prohibits newspaper employment advertisements from specifying the race of the candidates sought, but employers often found discreet ways to relegate blacks to low-paying service jobs. NGOs alleged that frequently employers required job applicants to submit personal photos to ensure that they had the correct "presence" for desired jobs. The law prohibits various forms of discrimination by retail establishments against prospective customers. However, the law did not deter discriminatory practices. Afro-Peruvians often were portrayed unflatteringly by the entertainment industry as individuals of questionable character or as comedic stereotypes.

### Indigenous People

The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language; however, the large population of indigenous people faced pervasive societal discrimination and prejudice. Many factors impeded their ability to participate in, and facilitated their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. Pervasive discrimination and social prejudice intensified perceptions of inferiority and second-class citizenship. Many indigenous people lacked basic identity documents that normally would identify them as full citizens and enable them to play an active part in society (see Section 5, Other Societal Abuses).

Other factors contributed to the marginalization of indigenous people in society. Poor transportation, language barriers, and inadequate communications infrastructure in the highlands and in the Amazon jungle region made political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government in Lima further limited the access and participation of indigenous people in society. UNICEF reported that indigenous people in rural areas did not have equal access to public services, particularly health and education: 90 percent lived in poverty; only 39 percent completed primary school; and there were higher child and maternal mortality in indigenous areas, where only 20 percent of births took place in public health centers.

The indigenous population of the Amazon region, estimated at between 200,000 and 300,000 persons, faced pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the indigenous communities had a spiritual relationship with their land, and the concept of land as a marketable commodity was alien to them. Nevertheless, according to the director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this indigenous population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned to some non-indigenous tenant by right of tenure. However, the marketing and sale of the lands were not prohibited.

Indigenous groups continued to resist encroachment on their native lands. Many indigenous people did not have title to the land on which they lived. For those who did, title to land does not include mineral or other subsoil rights, which belong to the State; this problem led to conflicts between mining interests and indigenous communities.

The National Commission on the Amazon Region and Indigenous and Afro-Peruvian Affairs (CONAPA) is assigned to the office of the president of the Council of Ministers. The Commission's members included officials from a variety of relevant ministries as well as representatives of the indigenous peasant population in the highland and coastal areas, the indigenous population of the Amazon jungle, and the Afro-Peruvian community. CONAPA worked with minority communities to choose local leaders to collaborate in efforts to extend social services to historically marginalized peoples. During the year, CONAPA also worked with the Government's National Citizen Registry, on an identity rights campaign for undocumented citizens (see Section 5, Other Societal Abuses).

The two principal NGOs that represented the interests of the indigenous population of the Amazon region were the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations were part of the Permanent Conference of Indigenous Peoples, an umbrella body that coordinated the activities of the country's indigenous population. CONAP advocated for indigenous communities' rights to share in the benefits of mining and other development operations. AIDSEP opposed territorial encroachments.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. The terrorist group coerced indigenous peasants into joining its ranks and demanded war taxes. Terrorist pressure on indigenous communities continued during the year, with Sendero representatives attempting to recruit followers among indigenous people living in the Pangoa and Tambo River valleys in Junin Province.

### Other Societal Abuses and Discrimination

The Constitution provides all persons with the right to a name, nationality, and legal recognition, and the exercise of civil, political, economic, and social rights; however, sources estimated that more than 1 million undocumented citizens, including at least 312,000 women, had no identity documents and thus were unable to avail of these rights. UNICEF calculated that approximately 15 percent of children were not registered, the majority of whom were illegitimate children, children of farm workers, or children of undocumented parents. The displacement of persons during the war against Sendero Luminoso and the constant movement of rural inhabitants to the cities worsened the problem of persons without documentation.

Undocumented citizens were socially and politically marginalized and had difficulties accessing government services. They also faced barriers to registering their children, becoming candidates for political office, or holding title to land and homes.

One of the most significant obstacles to obtaining a National Identity Document (DNI) was the requirement to present supporting documents, such as a birth certificate and a public utility receipt, to the DNI. Persons in rural areas faced special challenges in meeting these requirements. First, women were not always able to give birth at health establishments, which issue the certificate of live birth required for obtaining the birth certificate. Second, rural dwellers frequently did not have access to public utilities. Mothers who gave birth at home faced obstacles in retroactively obtaining a certificate of live birth. The Ministry of Health, in an effort to lower infant mortality, fined women who did not give birth in clinics or hospitals. In many rural areas, these women could not pay the fines and, consequently, did not register their children.

During the year, various entities of the Government, including the Ombudsman's office, the National Registry of Identification and Civil Status, and the ministries of Education and Health, as well as MIMDES, began work on this problem in cooperation with Oxfam, a human rights NGO. The Government eased requirements for citizens to obtain identity papers, requiring only a birth certificate or an identity issued by the military, instead of both, as previously required.

Despite the absence of formal prohibitions, homosexuals faced extensive discrimination. On August 11, a Lima supermarket's manager asked two male members of the Homosexual Movement of Lima to leave after they exchanged kisses in the supermarket's public cafeteria. Other clients had complained about their behavior.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution and the law provide for the right of association; however, worker rights advocates claimed that the laws were overly restrictive. Approximately 5 percent of the formal sector workforce of 8.5 million belonged to organized labor unions.

Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. Workers were not required to seek authorization prior to forming a trade union, nor could employers legally condition employment on union membership or non-membership.

A 2003 Law for Domestic Workers regulated the hours for and established fundamental rights for this overwhelmingly female section of the work force; however, the Ministry of Labor's limited ability to inspect the conditions of domestic workers minimized the law's effect.

### b. The Right to Organize and Bargain Collectively

The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. A union had to represent at least 20 workers to become an official collective bargaining agent. Representatives could participate in collective bargaining negotiations and establish negotiating timetables.

Although a conciliation and arbitration system exists, union officials complained that their proportionate share of the costs of arbitration often exceeded their resources. In addition, union officials claimed that, as the law prohibits temporary workers from participating in the same union as permanent workers, companies have resorted to hiring workers "temporarily" to prevent increases in the number of union members. The law restricts the number of temporary workers hired to 20 percent of a company's work force; however, some labor advocates claimed that some companies did not comply with the law.

The law provides for the right to strike, and workers exercised this right in practice; however, the law restricts unions that represent workers in public services deemed essential by the Government from striking. According to the Ministry of Labor, there were 2 legal strikes and 95 illegal strikes during the year. It was difficult to get approval for a legal strike. Labor movement leaders believed that the Ministry of Labor, which grants permissions for legal strikes, was reluctant to do so for fear of hurting the economy. In practice, labor movement representatives considered this as limitation on the right to strike.

There are four export processing zones (EPZs). Special regulations for the EPZs provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand.

### c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred.

Narcotraffickers and Sendero Luminoso terrorists held indigenous families captive in remote areas, using their labor, including that of children, to grow food crops and coca (see Section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The Child and Adolescent Code governs child and adolescent labor practices and restricts child labor based upon the age of the child, hours worked, and occupation; however, child labor was a serious problem. The legal minimum age for employment is 14; however, children between the ages of 12 and 14 may work in certain jobs for up to 4 hours per day, and adolescents between ages 15 to 17 may work up to 6 hours per day if they obtain special permission from the Ministry of Labor and certify that they also were attending school.

In practice, the law's provisions were violated routinely in the informal sector. In certain sectors of the economy, higher minimums were in force: Age 15 in industrial, commercial, or mining work and age 16 in the fishing industry. In 2003, the Ministry granted 1,020 permits to children between the ages of 12 and 17 to work in compliance with labor and education laws. The law prohibits children from engaging in certain types of employment, such as work underground, work that involves the lifting and carrying of heavy weights, work where the child or adolescent is responsible for the safety of others, work at night, or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school. An estimated 1.9 million children labored primarily in the informal sector to help support their families. Of this total, NGOs estimated that approximately 600,000 children were less than 12 years of age.

Significant numbers of children from rural areas, most of them female, often were moved to cities where they lived and worked in families as domestics.

Employers frequently required longer hours from their live-in charges, compelling them to carry out comprehensive duties, including cooking and childcare, for wages as low as \$20-30 (70-105 soles) per month. Child and adolescent laborers worked long hours in the agricultural sector. Other children reportedly were employed at times in dangerous occupations or in high-risk environments, such as informal gold mining, garbage collection, brick making, coca cultivation, or work in stone quarries and fireworks factories.

Although there were no reliable statistics on its extent, NGOs and other observers maintained that the country suffered a growing problem with adolescent prostitution (see Section 5), as demonstrated by police raids on clandestine brothels employing adolescent sex workers.

The Ministry of Labor is responsible for enforcing child labor laws, and its inspectors had legal authority to investigate reports of illegal child labor practices. Inspectors conducted routine visits without notice to areas where child labor problems were reported. Firms found guilty of violating child labor laws may be fined and have their operations suspended. Inspectors levied fines against 132 firms for violations of health and safety issues. Over the last 5 years, the Ministry of Labor carried out an average of nearly 4,000 inspections per year.

Inspectors maintained contact with a wide variety of local NGOs, church officials, law enforcement officials, and school officials. The Ministry of Labor reported that there were 170 labor inspectors (of whom 120 worked in Lima) responsible for all labor inspections. Inspections focused on the formal sector. The PNP and local prosecutors exercised law enforcement authority.

Narcotraffickers routinely violated the rights of children in their efforts to produce illegal drugs. In August, the National Commission for Development and Life Without Drugs estimated that 5,000 children were employed in the illegal narcotics industry, an activity that exposed them to a variety of toxic chemicals that could have effects that range from death to damage to a person's nervous system, blisters, or burns.

#### e. Acceptable Conditions of Work

The Constitution states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal." In September 2003, the Government raised the statutory minimum wage from \$124 (410 soles) a month to \$153 (460 soles), which was not considered sufficient to provide a decent standard of living for a worker and family. The Government estimated the poverty line to be approximately \$65 (214 soles) a month per person, a figure that varied by region. INEI's 2003 survey showed the poverty line at \$75 (260 soles) a month per person for Lima, compared with \$55 (180.5 soles) for the rural jungle. According to some estimates, as much as half the workforce earned the minimum wage or below, because such a great proportion worked in the largely unregulated informal sector. The Ministry of Labor was responsible for enforcing the minimum wage, which was enforced in the formal sector.

The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. A Supreme Decree states that all workers should work no more than 8 hours per day; however, labor advocates complained in recent years that workers were



pressured to work longer hours to avoid dismissal. The law requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift. Labor, business, and the Government reported that the majority of companies in the formal sector complied with the law.

While occupational health and safety standards exist, the Government lacked the resources to monitor firms or enforce compliance. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases. When firms were found to be in violation of the law, the Government punished them most often with fines. In cases of industrial accidents, the level of compensation awarded to the injured employee usually was determined by agreement between the employer and the individual involved. The worker did not need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.